



PUBLIC NOTICE

Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

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DA-02-874

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: April 16, 2002

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Brunson Communications, Inc. – Application for review of a decision reached December 7, 2001 **Dismissed** (February 20, 2002) [See fee decision of the Managing Director dated December 7, 1999]

Fraternal Order of Eagles, Skyline Aerie No. 4270 – Reconsideration of an earlier request for waiver of application filing fees **Denied** (February 20, 2002) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994); recon granted, 10 FCC Rcd 12759 (1995)]

Fireweed Communications Corporation – Petition for reconsideration of a decision dated December 12, 2001 **Denied** (February 14, 2002) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994); recon granted, 10 FCC Rcd 12759 (1995)]

Johanna Broadcasting, Inc. – Request for a reduction of the FY 2000 regulatory fee for station KTVC-TV Roseburg, OR **Dismissed** (February 28, 2002) [See section 1.1166(d) of the Commission's rules]

Hispanic Keys Broadcasting Corp. – Request for waiver of the FY 2001 regulatory fees for station WWTU(TV) Key West, FL **Granted** (February 25, 2002) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994); recon granted, 10 FCC Rcd 12759 (1995)]

Infinity Communications Group Trust – Request for a review of a decision concerning FCC Forms 159-W, Form 499-A and Form 159 dated November 27, 2001 **Denied** (February 28, 2002) [See 47 CFR par. 1.1157(c)]

Putt, Inc. – Request for waiver of FY 1999 regulatory fees for call sign WPIX533 **Granted** (February 6, 2002)

Sirius Satellite Radio, Inc. – Request for waiver and refund of application filing fees in connection with authority to launch and operate a low-Earth-orbit satellite system **Denied** (February 13, 2002) [See 47 U.S.C. par 158(d)(2); 47 CFR par 1.115]

Thy Kingdom Come Network – Request for refund of FY 2000 regulatory fee & penalty paid for WMJR AM 1380 **Denied** (February 14, 2002)

Volcano Broadcasting – Request for waiver or reduction of FY 2001 regulatory fees filed on behalf of KOHI St Helens, OR **Denied** (February 28, 2002) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994); recon granted, 10 FCC Rcd 12759 (1995)]

Yavapai Broadcasting Corporation – Request for refund of FY 2000 regulatory fee filed on behalf of KVNA(AM), KVNA-FM, K2699AR Flagstaff, AZ KZGL(FM) Cottonwood, AZ, WLI-505 and WHA-888 **Granted** (February 4, 2002) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2000, 15 FCC Rcd 14478, 14496 par. 44 (2000)]

NOTE: ANY QUESTIONS REGARDING THIS REPORT SHOULD BE DIRECTED TO THE REVENUE AND RECEIVABLES OPERATIONS GROUP AT (202) 418-1995.

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

February 20, 2002

OFFICE OF
MANAGING DIRECTOR

Barry D. Wood, Esquire
Wood, Maines and Brown
Attorneys at Law
1827 Jefferson Place, N.W.
Washington, DC 20036

RE: Application for Review and Supplement to Application For Review, Brunson Communications, Inc., Fee Control No.: 000000BCB-98-057; BCB000000 BCB-96-001; BCB96REG03; 000BCBHRD-94-023.

Dear Mr. Wood:

We received your Application for Review (AFR)¹ filed January 6, 2000 on behalf of Brunson Communications, Inc., WGTW, Burlington, New Jersey (Brunson), and a Supplement to the AFR (SAFR)² filed on January 19, 2001. The AFR seeks review of the Managing Director's response dated December 7, 1999 (*December 1999 Letter*) to your letter dated July 29, 1998 (*July 1998 Letter*). For the reasons below, we conclude that Brunson should pay the amount of the FY 1994 regulatory fee required of a construction permit holder.

Brunson seeks review of our *December 1999 Letter*, which was the last in a series of correspondence between Brunson and the Commission requesting relief from and demanding payment of the fiscal year (FY) 1994 regulatory fee of \$14,400 for a UHF television station. In summary, the AFR presented issues concerning its claim of financial hardship and the propriety of the amount of the fee applied to Brunson as a construction permit holder.

The AFR followed submissions that began on July 29, 1994 with Brunson filing a Petition for Exemption from Regulatory Fee requesting a waiver of the FY 1994 "regulatory fee for station WGTW" on the ground of financial hardship. In that initial request, Brunson presented reasons for the alleged financial difficulty, but did not include relevant required financial information, such as a balance sheet, a cash flow projection, or precise facts addressing the inability to pay the fee.

¹ Application for Review (filed January 6, 2000) (AFR) and Supplement to Application for Review (SAFR) (filed January 19, 2001).

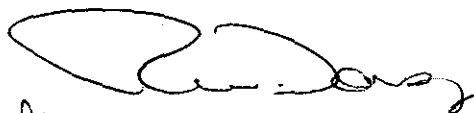
² The SAFR provided additional information concerning Brunson's financial situation.

We dismissed the request for waiver and offered Brunson to elect from three alternatives to pay the fee of \$14,400, pay the fee and request further relief based on specifically described documentation, or file a further request for waiver and deferment. Thereafter, Brunson filed a Petition for Reconsideration (PFR) of the dismissal of the Petition for Exemption from Regulatory Fee. Although Brunson submitted its 1993 Statement of Income and Expense, it did not address the remaining nine month period of FY 1994, and it did not challenge the accuracy of the Managing Director's assessment of \$14,400 as the correct regulatory fee. Consequently, the Managing Director determined again that Brunson did not sustain its burden.

Brunson responded with the *July 1998 Letter* that provided a chronology of proceedings, and it alleged an error in the fee because it held only a construction permit in 1994. We construed the *July 1998 Letter* in several alternatives, but nonetheless denied relief on December 7, 1999,³ without considering the merits of Brunson's construction permit contention.

Brunson's AFR again argues that Brunson held only a construction permit for its television station in FY 1994, and also contends that it had previously and timely raised this contention. In light of Brunson's assertions, we have again reviewed this matter and conclude that, in fact, the correct fee for Brunson for FY 1994 was \$3,200, in light of its status as a construction permittee at that time. Payment in the amount of \$3,200 is now due and must be submitted together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. If you have any questions concerning this letter, you may write me at the Commission or call the Revenue and Receivables Operation Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger
Chief Financial Officer

³ Letter from Mark Reger, Chief Financial Officer to Mr. Barry D. Wood, Wood, Maines and Brown, dated December 7, 1999.

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

RECEIVED

JAN 19 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In re petition of)
)
BRUNSON COMMUNICATIONS, INC.)
)
WGTW, Burlington, New Jersey)
)
For exemption from regulatory fees)

To: The Commission

SUPPLEMENT TO APPLICATION FOR REVIEW

Brunson Communications, Inc. ("Brunson"), by its attorneys, hereby supplements the application it filed on January 6, 2000 for review of the letter dated December 7, 1999, from Mark Reger, Chief Financial Officer of the Office of Managing Director, with respect to certain regulatory fees for television station WGTW, Burlington, New Jersey. The letter dismissed the request initially made by a petition filed in July 1994 for exemption of this station from the FCC regulatory fees for fiscal year 1994.¹

In the petition and subsequent materials, including the application for review, Brunson has shown that it was suffering substantial financial hardship during the year in question, and should therefore be relieved of the burden of the regulatory fees. The purpose of this

¹ Other submissions by Brunson in this regard include a petition for reconsideration dated October 2, 1995 and letters from counsel for the permittee dated April 25, 1996 and July 29, 1998.

Supplement is to clarify items as to which the staff evidently had questions or uncertainty, and which therefore may assist the Commission in reaching an appropriate result on review.

As additional information to support the showing of substantial financial hardship, attached hereto as Exhibit 1 is a copy of the balance sheet and income statement for Brunson for the nine month period ending September 30, 1994. (Financials for 1993 have been submitted previously.) The attached materials plainly show that Brunson was able to eke out a minuscule profit of only \$5,328.63 during the first nine months of 1994. This followed substantial losses during 1993, and was only made possible by virtue of the complete deferral of the salary of Brunson's owner, Dorothy Edwards Brunson, and through a substantial loan from Mrs. Brunson to provide for capital needs.

It is not as though Mrs. Brunson actually took any cash from the business to live. Instead, WGTW, as a start-up station, required an investment in equipment, studio facilities and related costs that was much more than the nominal balance sheet profit. Because WGTW went on the air in 1992 with the barest of used equipment, it was necessary to replace and supplement much of that equipment during federal fiscal year 1994. Brunson had to invest a six figure sum in equipment and new studio facilities in 1994, thus consuming all of the operation's income statement "profit," plus the entire depreciation line item.

One should bear in mind that part of Brunson's difficulty during this time period stemmed from the delay in the promulgation by the Commission of regulations to implement the mandatory carriage provisions of the 1992 Cable Act. Had the FCC enforced cable

carriage sooner, this new station would have been able to reach its audience in time to have cleared enough money during the subject period with which to pay the regulatory fee. Instead, because of the delay in the rulemaking process and subsequent court appeals, Brunson had to maintain a thin life line so as to still be in business when carriage was granted.

In earlier correspondence, the Managing Director expressed a concern about salary payments to Brunson's principal during the period in question. Attached hereto as Exhibit 2 is a listing of the salaries paid (or deferred) for the employees of Brunson during 1993 and 1994.² Clearly, this is not an instance where the station owners have taken large salaries in order to manipulate the income statement and avoid income at the corporate level. Rather, the listing shows that the station's owner received no salary during the relevant period. Considering that Mrs. Brunson worked an exhausting schedule in order to keep the station afloat through the difficult period when it was attempting to secure cable carriage, she is by all rights entitled to a credit for her living expenses. Even a minimal allowance for those expenses wipes out any perceived profit during the 1994 fiscal year.

Moreover, the salaries taken by the other employees (including the owner's adult son, who worked full time running the station's technical operations and on local program production) were extremely modest. Clearly, no financial resources were diverted to the

²As with other sensitive financial data, Brunson requests confidential treatment of its balance sheet and income statement and employee salary list.

station's owner in an effort to avoid regulatory fees that otherwise could have been paid out of handsome operating profits.

In addition to the public interest served by collection of a regulatory fee, the Commission must also consider in this connection the goal of fostering minority and female ownership of broadcast services that is reflected in § 309(j)(3)(B) of the Communications Act. *See also* § 22(a)(2) of the 1992 Cable Act ("increased numbers of females and minorities in positions of management authority in the...broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media..."). The Commission has found that "if the group of people who make programming decisions at a broadcast station...come from a wider variety of backgrounds with a greater range of human experience and social interactions, their programming decisions will better reflect the diversity of viewpoints in our pluralistic society..." *Equal Employment Opportunity Rules*, 15 FCC Rcd 2329, ¶ 4 (February 2, 2000).

Imposing a regulatory fee upon a struggling station such as WGTW, which in 1994 was (and still is) owned and managed by a female member of a minority group, is at variance with the diversity goals of the Nation and of the Commission. Indeed, WGTW is the only television station in the Philadelphia/Burlington area owned by an African American and the only one owned by a woman.

It is difficult enough for WGTW to keep its head above water when attempting to compete against stations owned by multi-billion dollar corporations, without having to pay

heavy fees dating from its struggling infancy. The result of collection of a regulatory fee in this instance would be to punish this minority woman broadcaster for having survived the difficult period when full cable carriage was not forthcoming.

In view of the information previously submitted, and of the materials set forth in the attached documents, Brunson urges the Commission to exempt it from the burden of paying regulatory fees for the federal fiscal year 1994.

Respectfully submitted,

BRUNSON COMMUNICATIONS, INC.

By: Barry D. Wood
Barry D. Wood
Paul H. Brown

WOOD, MAINES & BROWN,
CHARTERED
1827 Jefferson Place, NW
Washington, DC 20036
(202) 293-5333

Its attorneys

Dated: January 18, 2001

STAMP &
RETURN

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED
JAN - 6 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re petition of)
)
BRUNSON COMMUNICATIONS, INC.)
)
WGTW, Burlington, New Jersey)
)
For exemption from Regulatory Fees)

To: The Commission

APPLICATION FOR REVIEW

Brunson Communications, Inc. ("Brunson"), by its attorneys, hereby applies for review of the letter dated December 7, 1999, from Mark Reger, Chief Financial Officer of the Office of Managing Director, with respect to certain regulatory fees for television station WGTW, Burlington, New Jersey. The letter dismissed the request initially made by a petition filed in July 1994 for exemption of this station from the FCC regulatory fees for fiscal year 1994.¹

In the petition and subsequent materials, Brunson showed that it was suffering substantial financial hardship during the year in question, and should therefore be relieved of the burden of the regulatory fees.

¹ Other submissions by Brunson include a petition for reconsideration dated October 2, 1995 and letters from counsel for the permittee dated April 25, 1996 and July 29, 1998.

- 2 -

Mr. Reger's December 7, 1999 letter undertakes a chronology of petitions and correspondence between the Commission and Brunson's attorneys with reference to this matter. Unfortunately, this letter is essentially silent on the substance of the communications between counsel for Brunson and the Commission.

Mr. Reger asserts that correspondence from this office with respect to the exemption request has been untimely. For example, Mr. Reger argues that Brunson has waived its argument that the regulatory fee for 1994 should have been reduced because Brunson was a permittee, not a licensee, in fiscal year 1994. The basis for Mr. Reger's position is that Brunson supposedly mentioned this aspect of its case "for the first time," in a July 29, 1998 letter.

However, in the initial petition for exemption (filed July 29, 1994), in the second paragraph, Brunson described itself as the "permittee" of station WGTW. Thus, the Commission was on notice as early as 1994 of Brunson's belief that it held nothing more than a construction permit for WGTW. In addition, the Commission should be expected to know whether its own authorizations are permits or licenses. In other words, Mr. Reger contends that Brunson should have raised such an issue with the first petition. In fact, Brunson's 1994 petition *did* assert Brunson's status as a permittee. Thus, Mr. Reger's contention that Brunson somehow waived a claim that an improper fee was being charged is specious.

Moreover, it is outrageous for the government to claim a fee amount that is several times what the government would have been entitled to under its own regulations, merely

- 3 -

because Brunson did not anticipate that the office of Managing Director would mistakenly treat Brunson as holding a license that it did not, in fact, have. This part of the December 7 letter could be the basis for a chapter of *Catch 22* or a Kafka novel.

In the March 25, 1996 letter from Regina Dorsey, Chief of the Billings & Collections Branch, Brunson was informed that the "request for a waiver of the regulatory fee due for your station was denied/dismissed." Brunson had already been informed that its 1994 petition was dismissed by letter dated August 29, 1995 from Marilyn McDermott, Associate Managing Director for Operations. What the Commission's March 1996 letter failed to state was that the petition for reconsideration had also been dismissed the previous month. While Brunson is charged with knowledge of items put on public notice by the Commission, until December 1999 neither Brunson nor her counsel ever received a copy of the February 1996 dismissal of Brunson's October 1995 petition for reconsideration. Moreover, Mr. Reger's letter mischaracterizes the action of the Commission in *In the matter of James A. Kay, Jr.*, 13 FCC Rcd 6349 (1998). Rather than finding that a disputed letter was received, when there was testimony that it was not, *Kay* was a case in which the Commission found that a letter *was not* received, although a copy of that letter was found in a correspondent's files. In this case, a copy of this decision is in the Commission's files, but neither Brunson nor her counsel received a copy. The *Kay* presumption should go both ways: testimony that a letter was not received should be considered as truthful by the Commission.

- 4 -

This point is borne out by the contents of the April 1996 letter from Brunson's counsel, which states, in the first paragraph, "The letter is evidently based on an earlier [*i.e.*, August 1995] decision, dated August 29, 1995, by Marilyn McDermott, Associate Managing Director for Operations." Moreover, the last paragraph on the first page reads, "If your files reflect that action has been taken on the reconsideration filing from last October, I would appreciate a copy of the document reflecting such action, as no such document appears in our files." This cannot be considered as anything but a request for a document, if such exists. Brunson's letter also detailed questions concerning the ability of the Commission to keep financial data confidential and invited further communication on that subject.

Until the December 1999 letter, the Commission did not acknowledge receipt of Brunson's April 1996 letter. The Commission's next correspondence (July 1998) ignores the April letter, and requests payment of the regulatory fee and a penalty for late payment. Brunson's July 29, 1998, letter is responsive to the Commission's July 1998 collection letter, and details the history of correspondence on the subject to date. Again, a request was made for a copy of any action on Brunson's October 1995 petition for reconsideration. No response was forthcoming from the Commission until a year and a half later, in the December 1999 letter.

Mr. Reger's December 1999 letter concludes with a discussion of the public interest in collection of the regulatory fee. Nothing in the Commission's correspondence reflects any consideration of the public interest in having a struggling television station, the only one in

- 5 -

a major market owned and managed by a minority woman, succeed. The Commission cannot guarantee the financial success of its permittees and licensees. However, it can help or hinder their success by the actions that it takes. Surely, the public interest in the success of such a station needs to be weighed against the Commission's collection of its pound of flesh. Yet, in all of the Commission's correspondence, the public interest in diversity of broadcasting is not mentioned. Has it been considered? Simple justice requires *someone* at the Commission to consider such matters. As no one appears to have done so, Brunson urges the Commission to do so now.

In view of the foregoing, and of the materials set forth in the attached documents, Brunson urges the Commission to exempt it from the burden of paying regulatory fees for the year 1994.

Respectfully submitted,

BRUNSON COMMUNICATIONS, INC.

By: 

Barry D. Wood
Paul H. Brown

WOOD, MAINES & BROWN,
CHARTERED
1827 Jefferson Place, N.W.
Washington, D.C. 20036
(202) 293-5333

Its attorneys

Dated: January 6, 2000

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FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 7 1999

OFFICE OF
MANAGING DIRECTOR

Mr. Barry D. Wood
Wood, Maines and Brown
Attorneys at Law
1827 Jefferson Place, N.W.
Washington, DC 20036

Re: WGTW-TV, Regulatory Fees, Fee Case No's:
.000000BCB-98-057; BCB000000 BCB-96-001,
BCB96REG03, 000BCBHRD-94-023

Dear Mr. Wood:

This responds to your correspondence on behalf of Brunson Communications, Inc., permittee of television broadcast station WGTW, Burlington, New Jersey (hereinafter Brunson or WGTW).

In summary, your letter raises three points. First, you acknowledge receipt of the Commission's July 16, 1998 request for payment of the regulatory fee (FY 94). Second, you assert the Commission either did not send you a copy of the decision on your petition for reconsideration filed on October 2, 1995, or no decision was reached. Finally, you claim that WGTW was the holder of a construction permit, and as such the regulatory fee should have been much less than \$14,400. For the reasons stated herein, I find that your request is untimely, but even if the merits were considered, nothing submitted provides either a basis for reconsideration or evidence of financial hardship.

As you know, the Commission dismissed Brunson's petition dated July 24, 1994 because Brunson did not submit any documentation of financial hardship which would warrant a waiver of the regulatory fees. Although the request for waiver had been dismissed, and payment of the regulatory fee of \$14,400 was due, Brunson was informed that it could request a waiver when the fee was paid, or request waiver and seek deferment.

On October 2, 1995 Brunson filed an undated Petition for Reconsideration and included a copy of its 1993 Statement of Income and Expense and a brief comment that the station operated at a competitive disadvantage. Even though the petition was untimely, it was considered but dismissed. I am enclosing a copy of the decision for your records. Brunson's submission failed to establish financial hardship during the period covered by the regulatory fee. The Commission noted in part:

The documents submitted establish that Brunson had a negative cash flow in 1993, that it has a substantial deficit in retained earnings, and that as a result its shareholders hold a negative interest in the licensee. However, we note that the documents cover only the first three months of operation during FY 1994, they do not establish Brunson's financial condition at the time payment was due, that Brunson's losses for 1993 were exceeded by its unitemized administrative expenses, that Brunson has not identified the financial distributions to its officers and shareholders, as well as salaries and other payouts to owners and officers which could be included in the category of administrative expenses. Moreover, more recent, relevant and complete data which would present a more accurate picture of Brunson's financial condition should now be available. Thus, Brunson has not yet established that it is entitled to a waiver of its regulatory fee obligations because of financial hardship and its petition must be dismissed.

The letter requested payment within 30 days, and permitted a further request for waiver and either a refund of the fee or deferral of the payment. The dismissal was a matter of public record at 11 FCC Rcd. 3683, Public Notice, *Fee Decisions Of The Managing Director Available To The Public*, DA 96-305 (Mar 26, 96).

The day before that public notice, on March 25, 1996, the Commission issued a bill and reminder that the request for waiver had been "denied/dismissed" and that the fee of \$14,400 was due within 30 days or a 25% penalty with interest would be assessed. Your subsequent reply removes any doubt whether you received that correspondence.

On April 25, 1996, a day after payment was due, you asserted that you had not received a decision on its request for reconsideration. On July 16, 1998, you were notified that payment had not been received; accordingly, a penalty was assessed and the new full amount (\$18,000) was due within 30 days.

On July 29, 1998, you wrote denying receipt of any action on the petition for reconsideration, and for the first time you asserted that WGTW "merely had a construction permit to operate," thus the fee should have been "substantially less than \$14,400."

Brunson's opportunity to seek reconsideration of the decision or review of the request for waiver lapsed before either of your replies dated April 25, 1996 or July 29, 1998.

In a timely manner and following procedures, Brunson could have responded to either or both dismissals or it could have applied the rules and procedures in 47 CFR Part 1 and sought reconsideration. Neither proper course was followed. Thus, the decision is final and no further proceeding is appropriate.

The chronology of this case demonstrates that Brunson's first time within which to request a waiver was 30 days from August 29, 1995 (the dismissal of the first request for waiver). Although Brunson's time expired on September 29, 1995, it filed a second request, captioned "Petition for Reconsideration" on October 2, 1995. The Commission considered the matter and issued a decision on February 12, 1996. This decision also permitted a "further request for a waiver [or] further deferral of the fee" if filed "within 30 days from the date of th[e] letter." That 30-day period expired on March 13, 1996. Even considering your assertion that the decision was not received, it was nonetheless final on the date of public notice, March 26, 1996. Moreover, you received a bill and demand letter dated March 25, 1996 that plainly stated the request for waiver had been dismissed.

Applying the times established in the Commission's procedures, Brunson had until March 13, 1996 in which to file a further request for waiver with appropriate supporting documentation and until April 25, 1996 to file a petition for reconsideration or an application for review (but not both) (47 CFR §1.104(b)).

Your assertion that you did not receive the decision is insufficient to rebut the presumption of receipt (*see In the Matter of James A. Kay, Jr.*, 13 FCC Rcd 6349 (Mar 10, 98), *citing Konst v. Florida East Coast Railway Co*, 71 F3d 850 (11th Cir., 1996)). However, even if you did not receive a copy of the Commission's decision of February 12, 1996, the bill and demand letter as well as the public notice plainly established that the request was dismissed.

The letter filed on April 25, 1996 was addressed to the Chief, Billing and Collections Branch. It cannot reasonably be construed as a petition for reconsideration or an application for review to the Commission. Moreover, nothing suggests it should be construed as a request that the Commission extend additional time for Brunson to file a petition. Even examining the correspondence in the light of a petition for reconsideration to the Commission, it does not meet minimal procedural requirements of identifying with particularity how the decision of the Managing Director should be changed, or how the findings of fact or conclusions of law are believed to be erroneous (47 CFR §1.106(d)(1)-(2)). Finally, nothing submitted may be construed as evidence of financial hardship extending beyond December 31, 1993.

Your letter of July 29, 1998 renewed the assertion that Brunson had not received a decision on the October 2, 1995 Petition for Reconsideration. For the first time you assert in the alternative, if a fee is due, it should be limited to a lesser amount due from a construction permit holder. The opportunity to raise that issue for consideration lapsed years earlier. It should have been presented, if at all, when the original request for waiver was submitted.

As a matter of procedure, Brunson's requests for further review are untimely and fail to address the required elements to support the request. Moreover, as a matter of substance, the cash flow, expenditures, or financial situation specifically applicable to the period of FY 1994, October 1,

Mr. Barry D. Wood

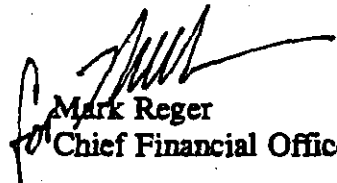
4.

1993 to September 30, 1994 were never addressed. The financial information was general, it applied only to calendar year 1993, and it failed to distinguish what, if any, hardship existed for the television station. To the extent the correspondence may be construed as an application for review pursuant to 47 CFR §1.115, it is procedurally incomplete and untimely.

Any request for relief from the fee amount must be considered under the statute, 47 U.S.C. §159 and 47 C.F.R. §1.1166. The statute permits the Commission to "waive, reduce, or defer payment of a fee in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. 159(d). However, the authority to waive fees is narrowly defined (*See Conference Report, H.R. Rep. No. 453, 99th Cong., 1st Sess. 423*) applying the standard of whether an extraordinary or compelling reason has been demonstrated and would the waiver of the fee overrides the public interest to collect the fee. Your request does not meet that standard, thus to the extent it may be construed as a request for a waiver or refund of all or any portion of the fee, it is dismissed in its entirety.

The amount due, \$18,000 plus accrued interest is due and payable immediately.

Sincerely,


Mark Reger
Chief Financial Officer

Enclosure

000000 BCG-98-057

WOOD, MAINES & BROWN

CHARTERED

ATTORNEYS AT LAW

1827 JEFFERSON PLACE, N.W.
WASHINGTON, D.C. 20036

TELEPHONE - (202) 293-5333
FACSIMILE - (202) 293-9811

BARRY D. WOOD
RONALD D. MAINES
PAUL H. BROWN
HANS K. WILD

OF COUNSEL

MARK A. BRINTON

*Admitted in Virginia only

July 29, 1998

Ms. Claudette E. Pride
Billings & Collections Branch
Federal Communications Commission
1919 M Street, N.W., Room 452
Washington, D.C. 20554

Dear Ms. Pride:

This is in response to the letter dated July 16, 1998 which you signed on behalf of Regina Dorsey, Chief of the Billings & Collections Branch of the Federal Communications Commission. In that letter, you requested payment of the regulatory fee from our client, Brunson Communications, Inc., permittee of television broadcast station WGTW, Burlington, New Jersey, for the 1994 federal fiscal year.

This firm filed a request for waiver of the 1994 regulatory fee for station WGTW. By letter dated August 29, 1995, the FCC dismissed the waiver request. Nevertheless, in the dismissal letter the Commission noted that the permittee could file a supplemental request for waiver accompanied by documentation establishing the financial need of Brunson Communications, Inc.

On October 2, 1995, this firm filed a petition for reconsideration of the FCC's action of August 29, 1995. The permittee submitted, along with the petition, its latest financial statements as of the date the fee payment would have been due. That document conclusively demonstrated the permittee's financial hardship.

Nevertheless, on March 25, 1996, Ms. Dorsey sent the permittee a Bill for Collection with respect to the 1994 regulatory fee. In the Bill for Collection, Ms. Dorsey stated erroneously that the Commission had not received any additional information. In response to Ms. Dorsey's letter, this firm sent a letter to Ms. Dorsey on April 25, 1996 noting that Brunson Communications, Inc. had, in fact, submitted additional information in the form of a petition for reconsideration and supporting financial statements.

RECEIVED

Ms. Claudette E. Pride
July 29, 1998
Page 2

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FCC
FEDS COMM

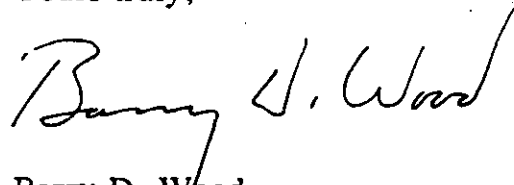
The records of our firm do not reflect that the Commission has taken any action on the petition for reconsideration. If the FCC has acted on the petition, we would appreciate a copy of the document reflecting such action. If the FCC has not acted on the reconsideration petition, we request that the Commission now consider the petition and grant it.

In your letter, you claim that the sum of \$14,400 is due from Brunson Communications for the 1994 regulatory fee. However, in 1994 Brunson Communications merely had a construction permit to operate WGTW. Even assuming that any fee should be assessed (which is not the case, based on Brunson's compelling waiver showings), the regulatory fee for the holder of a construction permit was substantially less than \$14,400.

Attached are copies of the documents referenced above. As before, these materials are being submitted to the agency contingent on a grant of confidentiality with respect to all financial information set forth therein pursuant to Section 0.459 of the Commission's Rules. The financial documents attached hereto contain sensitive proprietary information. The public release of this information would place WGTW at a competitive disadvantage and would subject the permittee to potentially embarrassing public attention.

If you have any questions regarding this letter, please call Hans Wild of this firm or the undersigned.

Yours truly,



Barry D. Wood
Counsel for Brunson
Communications, Inc.

BDW/cjl
Enclosures

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

JUL 16 1998

Brunson Communications
Barry D. Woods, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
2300 M Street, N.W.
Suite 900
Washington, DC 20037

REF: BCB96REG03

Dear Mr. Woods:

This is the second demand for payment. If payment is not made within 30 days of this letter, or in the alternative, proof of payment or documentation establishing that you are exempt from the regulatory fee requirement, any pending actions for this station will be dismissed, and any subsequent requests for Commission action may be subject to denial.

Payment of the \$14,400 1994 regulatory fee, and the 25% late payment penalty assessed under 47 C.F.R. § 1.1164, are now due. Payment in full of \$18,000 should be remitted with the enclosed Form 159 to the Federal Communications Commission, P.O. Box 358835, Pittsburgh, PA 15251-5835, pursuant to instructions on the Form 159. You should also review your records to ensure that payments are made for any auxiliary stations associated with the reference call sign, for any other calls signs assigned to you, or for any prior fiscal years for which payments are due.

You are advised that failure to pay the regulatory fees and penalties as described above may result in the imposition of further sanctions under 47 C.F.R. § 1.1164. If you have any questions concerning the fees, you may contact me at (202) 418-1995.

Sincerely,


Regina W. Dorsey, Chief
Billings & Collections Branch

Enclosure

Claims that it
did not get

Feb 12, 1996
letter

STAMP &
RETURN

JONES, WALDO, HOLBROOK & McDONOUGH

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS

SUITE 900

2300 M STREET, N.W.

WASHINGTON, D.C. 20037-1436

TELEPHONE (202) 296-5950

FACSIMILE (202) 293-2509

MAIN OFFICE

SALT LAKE CITY OFFICE

1500 FIRST INTERSTATE PLAZA
170 SOUTH MAIN STREET
POST OFFICE BOX 45444
SALT LAKE CITY, UTAH 84145-0444
TELEPHONE (801) 521-3200
FACSIMILE (801) 328-0537

ST. GEORGE OFFICE

THE TABERNACLE TOWER BLDG.
249 EAST TABERNACLE
ST. GEORGE, UTAH 84770-2978
TELEPHONE (801) 628-1627
FACSIMILE (801) 628-5225

April 25, 1996

RECEIVED
APR 25 1996
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

Regina W. Dorsey, Chief
Billing & Collections Branch
Office of Managing Director
Federal Communications Commission
Washington, D.C. 20554

Dear Ms. Dorsey:

This is with respect to your letter of March 25, 1996 with respect to the regulatory fee for Station WGTW, Burlington, New Jersey. The letter is evidently based on an earlier decision, dated August 29, 1995, by Marilyn McDermett, Associate Managing Director for Operations.

Your letter indicates that the regulatory fee of \$14,400 was due within 30 days of notification of the decision, "unless additional information can be provided to substantiate [the] waiver request." Your letter further stated that, as of March 25, 1996, the Commission had "not received either the additional information or [the] regulatory fee payment."

In fact, Brunson Communications, Inc. did submit the further information requested, with a petition for reconsideration filed on October 2, 1995. A copy of the receipt-stamped duplicate of this pleading is attached hereto. The October 2, 1995 filing included a copy of the balance sheet and statement of operations and cash flows for the year ended December 31, 1993. It showed that WGTW was suffering tremendous financial hardship, far more than enough to justify exemption from the regulatory fee requirement.

If your files reflect that action has been taken on the reconsideration filing from last October, I would appreciate a copy of the document reflecting such action, as no such document appears in our files.


Regina W. Dorsey, Chief
April 25, 1996
Page 2

Unfortunately, information has come to our attention which renders resubmission of the balance sheet and income statements inadvisable. Attached hereto is a copy of material which was obtained in the last few days from the Commission's files with respect to Station WNTZ-TV, Natchez, Mississippi. This material includes a letter from counsel for WNTZ requesting that "the proprietary financial data included in this submission be kept confidential."

Notwithstanding that request, the information was readily made available to the public. Accordingly, it would seem that the Commission needs to establish procedures that would give licensees confidence in the enforcement of confidentiality before detailed financial information can be tendered to the Commission in this fashion.

Please advise as to the means by which the information in question can be submitted without risk of disclosure.

Yours truly,



Barry D. Wood

BDW/cjl
Enclosure

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

March 25, 1996

OFFICE OF
MANAGING DIRECTOR

Brunson Communications
Barry D. Woods, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
2300 M Street, NW, Suite 900
Washington, D.C. 20037

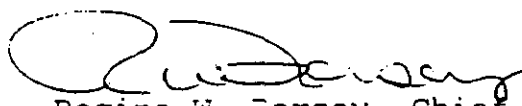
Dear Mr. Woods:

A review of our records indicate that your request for a waiver of the regulatory fee due for your station was denied/dismissed. The fee of \$14,400.00 was due within 30 days of notification of the decision, unless additional information could be provided to substantiate your waiver request. As of this date, we have not received either the additional information or your regulatory fee payment.

Enclosed is a "Bill for Collection" for the regulatory fee due. If the regulatory fee payment has already been made or you have submitted additional information prior to this notice, please submit verification documentation so that we can promptly credit your account.

If payment has not been made, please remit your payment to the address listed on the Bill for Collection. If payment is not received within 30 days of this notice, a 25% penalty will be assessed, and interest will begin to accrue until the debt is satisfied. Please return a copy of this letter along with your response.

Sincerely,



Regina W. Dorsey, Chief
Billings & Collections Branch

Enclosure

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

March 25, 1996

OFFICE OF
MANAGING DIRECTOR

Brunson Communications
Barry D. Woods, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
2300 M Street, NW, Suite 900
Washington, D.C. 20037

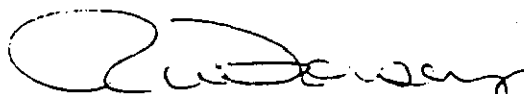
Dear Mr. Woods:

A review of our records indicate that your request for a waiver of the regulatory fee due for your station was denied/dismissed. The fee of \$14,400.00 was due within 30 days of notification of the decision, unless additional information could be provided to substantiate your waiver request. As of this date, we have not received either the additional information or your regulatory fee payment.

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If payment has not been made, please remit your payment to the address listed on the Bill for Collection. If payment is not received within 30 days of this notice, a 25% penalty will be assessed, and interest will begin to accrue until the debt is satisfied. Please return a copy of this letter along with your response.

Sincerely,



Regina W. Dorsey, Chief
Billings & Collections Branch

Enclosure

**Federal Communications Commission
BILL FOR COLLECTION**

FOR INQUIRIES CALL
1-202-418-1995
(Billings and Collections)

Bill Number

BCB96REG03

Bill Date

03/25/96

Please write your bill number on your remittance.

☐ Payable to

Federal Communications Commission
Send a copy of this bill to

☐ **Federal Communications Commission**

☐ **Billings & Collections Branch**

☐ **1919 M Street, NW, Rm 452**

☐ **Washington, DC 20554**

Vendor:

Brunson Communications

Barry D. Woods, Esquire

Jones, Waldo, Holbrook & McDonough, P.C.

2300 M Street, NW, Suite 900

Washington, DC 20037

Total Amount Due

\$14,400.00

Due Date

04/24/96

Total Amount Due Must Be Received By

Description

Your waiver request for FY 1994 regulatory fees has been dismissed.

Please attach a copy of this bill to your payment to ensure proper credit.

Payment Type Code

Quantity

Fee Due

Total Fee Due

\$14,400.00

Credit Card Payment Information



MASTERCARD



VISA

Mastercard / Visa Account No.:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Expiration:

--	--

Month

--	--

Year

I hereby authorize the FCC to charge my MASTERCARD or VISA for the service(s) / authorization(s) herein described.

ATTENDED SIGNATURE

DATE

FORBUE

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

FEB 12 1996

Barry D. Wood, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
Suite 900
2300 M St., N.W.
Washington, D.C. 20037

Re: Request for Waiver of Regulatory Fee
Brunson Communications, Inc.
UHF Television Station WGTW

Dear Mr. Wood:

This is in response to your request for a waiver of the Fiscal Year (FY) 1994 mass media regulatory fee filed on behalf of Brunson Communications, Inc. (Brunson), licensee of UHF Television Station WGTW, Burlington, New Jersey.

In a letter ruling dated August 29, 1995, a prior petition filed by Brunson was dismissed because it failed to establish a basis for waiver. Brunson was granted leave to refile its request supported by documentation of its financial hardship. Brunson's current petition is supported by a consolidated balance sheet, a consolidated statement of operations, and a statement of cash flows, all for the year ending December 31, 1993. Brunson asserts that these documents were not available when it filed its original petition and that because of the losses experienced in 1993 it is unable to pay the FY 1994 regulatory fee. Brunson requests that these documents be granted confidential protection and be used only for purposes of internal agency action.

The request for confidentiality is granted and the financial documents submitted in support of Brunson's petition will not be routinely available for public inspection.

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. Thus, the Commission decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994).


Barry D. Wood, Esquire
Page 2

The documents submitted establish that Brunson had a negative cash flow in 1993, that it has a substantial deficit in retained earnings, and that as a result its shareholders hold a negative interest in the licensee. However, we note that the documents cover only the first three months of operation during FY 1994, they do not establish Brunson's financial condition at the time payment was due, that Brunson's losses for 1993 were exceeded by its unitemized administrative expenses, that Brunson has not identified the financial distributions to its officers and shareholders, as well as salaries and other payouts to owners and officers which could be included in the category of administrative expenses. Moreover, more recent, relevant and complete data which would present a more accurate picture of Brunson's financial condition should now be available. Thus, Brunson has not yet established that it is entitled to a waiver of its regulatory fee obligations because of financial hardship and its petition must be dismissed.

Brunson should file a completed FCC Form 159 (copy enclosed) together with the regulatory fee payments for the above listed radio stations, within 30 days from the date of this letter. The payment may be accompanied by a further request for a waiver of the fees, and for a refund of the fee payment. In the alternative, Brunson may request a further deferral of the fee payment, if documents are submitted establishing that it is entitled to a waiver of the fee requirements.

If you have any questions concerning the payment of the regulatory fee, please call the Chief, Fee Section at (202) 418-1995.

Sincerely,


Marilyn J. McDermett
Associate Managing Director
for Operations

ENCLOSURE

Federal Communications Commission

WASHINGTON, D. C. 20554

STAMP &
RETURN

In re Petition of)

BRUNSON COMMUNICATIONS, INC. (WGTW))

For Exemption from FCC Regulatory Fees)
for Fiscal Year 1994 for WGTW (TV),)
Channel 48, Burlington, NJ)

To: The Managing Director

RECEIVED

OCT 2 - 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

PETITION FOR RECONSIDERATION

Brunson Communications, Inc., by its attorneys, hereby petitions the Managing Director for reconsideration of the action, expressed by letter from Marilyn McDermott, Associate Managing Director for Operations, to undersigned counsel for Brunson Communications, Inc., dismissing the company's Petition, filed July 29, 1994, for Exemption from the FCC's Regulatory Fees for fiscal year 1994.

In connection with its original petition, Brunson Communications, Inc. set forth in detail the financial problems it was facing in its struggle to provide an alternative minority owned program outlet in the Delaware Valley. In addition,, it had offered to provide further financial information provided that the Commission would maintain the confidentiality of any financial information to be tendered to the Commission in support of its petition.

- 4 -

The company did not actually receive a response to that request. Mrs. McDermott's letter is silent with respect to the request for confidentiality.

Nevertheless, in support of its petition for reconsideration, it is willing to tender a copy of its 1993 Statement of Income and Expense to the Commission. (That statement was not yet available when the waiver petition was filed.) From a review of this statement, it is clear that in 1993 this company suffered substantial losses, and was not in a financial position to make the Regulatory Fee Payment to the FCC without impairing its service to the public.

For many years, the FCC required financial information from broadcast permittees and licensees in the form of FCC Form 324, the Annual Financial Report.

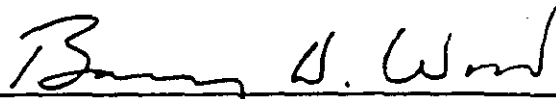
The Form 324 information was kept strictly confidential within the Commission, and was used only for the purposes of internal agency action. There is no reason why the same courtesy should not be afforded to the attached submission. Such information is of a proprietary nature, and could prove damaging if it fell into the hands of the competitors of Channel 48.

In that regard, it should be noted that Brunson Communication, Inc., is the only television station operating in a major market which is controlled by a black woman. Moreover, as the only Station in the Philadelphia area that has initiated operations in the last five years, the Station is at a competitive disadvantage as to those stations which are owned by communications conglomerates and which have been on the air for decades without interruption.

Therefore, Brunson Communications, Inc. requests that the Commission grant its request for exemption from the Regulatory Fee for fiscal year 1994, and that the financial materials submitted in support thereof be kept confidential by the Commission.

Respectfully submitted,

BRUNSON COMMUNICATIONS INC.


By: Barry D. Wood

Jones Waldo Holbrook & McDonough, PC
2300 M Street, N.W., Suite 900
Washington, D.C. 20037
(202) 296-5950
Its Attorneys

} *File*

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

August 29, 1995

OFFICE OF
MANAGING DIRECTOR

Barry D. Wood, Esquire
Jones, Waldo, Holbrook & McDonough, P.C.
2300 M St., N.W.
Washington, D.C. 20037

Re: Request for Waiver of Regulatory Fee
Brunson Communications, Inc.
UHF Television Station WGTW

Dear Mr. Wood:

This is in response to your request for a waiver of the Fiscal Year (FY) 1994 mass media regulatory fee filed on behalf of Brunson Communications, Inc. (Brunson), licensee of UHF Television Station WGTW, Burlington, New Jersey.

The request for a waiver of the regulatory fees for Station WGTW is dismissed. The Commission has held that it would waive the regulatory fees for regulatees that can establish that they lack sufficient funds to pay the fees and maintain service to the public. Regulatees can establish financial need with:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

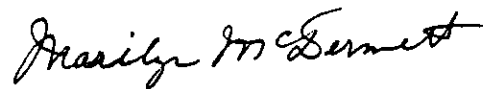
Implementation of Section 9 of the Communications Act, FCC 95-257, ¶ 13, released June 22, 1995. Brunson has not submitted any documentation of financial hardship which would warrant a waiver of the regulatory fees.

In Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5334 ¶ 29 (1994), the Commission did not establish specific standards for waivers or specify what information would be required to support a claim of financial hardship. Thus, the Commission has held that it would afford regulatees, which had not submitted an adequate showing of financial hardship, an opportunity to document their financial condition. FCC 95-257 supra at ¶ 13.

Barry D. Wood, Esquire
Page 2

Accordingly, payment of Brunson's regulatory fee is now due. Within 30 days from the date of this letter, Brunson should file the FCC Form 159 (copy enclosed) together with its FY 1994 regulatory fee of \$14,400. The payment may be accompanied by a request for waiver and refund of the regulatory fee supported by documentation establishing Brunson's financial need. In the alternative, Brunson may file a request for a waiver and further deferment of the FY 1994 regulatory fee. If you have any questions concerning the payment of the regulatory fee, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Marilyn J. McDermett
Associate Managing Director
for Operations

ENCLOSURE

33
ORIGINAL
RECEIVED

BEFORE THE
Federal Communications Commission

WASHINGTON, D. C. 20554

JUL 29 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FEEs FCC
SECTION

In re

STATION WGTW-TV
Burlington, New Jersey

Exemption from
Regulatory Fees

TO: The Managing Director

gm

PETITION FOR EXEMPTION FROM REGULATORY FEE

Brunson Communications, Inc. ("BCI"), by its attorneys, and pursuant to Section 1.1165 of the Commission's Rules, hereby petitions for waiver of the regulatory fees imposed generally by Section 9 of the Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1993, 47 U.S.C. § 159.

Brunson Communications, Inc. is the permittee of television station WGTW, Channel 48, Burlington, New Jersey. The station's general manager, Dorothy Edwards Brunson, is also the president, chairman and sole voting stockholder of BCI.

To our knowledge, WGTW is the only television station controlled and operated by an African American women. WGTW competes in a market where most of the television stations are owned by multi-million dollar media companies, including two of the three traditional networks.

Against these formidable odds, BCI is doing its best to fulfill the FCC's goals under the 1978 minority policy statement, which has been buttressed by numerous Congressional statements of support for minority ownership, including the annual FCC authorization.

WGTW began operation on Channel 48 on August 15, 1992. In so doing, BCI restored the former service which had been offered by station WKBS-TV. (The licensee of that station had turned the WKBS-TV authorization back to the Commission prior to the filing of BCI's construction permit application.)

Since WGTW went on the air, and through October 1, 1993, the station's operation has been characterized by financial hardship. In particular, during the most of the first year of the station's operation, virtually all of the cable television systems operating in the market refuse to carry WGTW's signal. BCI believes that this was largely out of anti-competitive motives, since most if not all of these cable television systems sell local spot advertisements at rates competitive with those offered by WGTW. Even after the Commission's must carry rules became effective, several major systems in the area have continued to refused to carry WGTW. Even though the station's performance has improved in recent months, this has prevented BCI from achieving the results that were projected at the time it sought the Channel 48 authorization.

On a number of occasions, WGTW was within moments of having its electrical service cut off because of the lack of revenues

with which to pay for electricity consumed by the Channel 48 transmitter.

These financial difficulties involved operating losses in excess of \$50,000 per month for many months. BCI continues to confront a very large arrearage in financial obligations from that period. As a result, WGTW has not yet been able to complete construction of the station in all respects. It has only been within the last few weeks that it has been able to acquire a new klyston tube which will bring the station within approximately ninety percent of its authorized power. A pressing goal for the station is to reach one hundred percent of authorized power through the modification of its transmitting facilities to accommodate a "pulsed klyston" system. Obviously, the realization of that goal will be substantially delayed in BCI is forced to expend those funds in payment of the fiscal year 1994 regulatory fee. Service to the public, especially to residents of areas on the fringe of WGTW's coverage area, will necessarily suffer.

If the Commission desires further financial information in greater detail, BCI will be happy to provide it. However, because of the sensitivity of such information, it requests that the Commission keep such information as confidential along the lines of the Form 324 financial reports which were filed with the FCC by licensee for many years.

For the reasons stated above, BCI also requests that the Commission defer payment of the fee, if any payment should ulti-

mately be required, until such time as the Commission acts on the instant waiver request.

When Congress imposed the general regulatory fees authorized in Section 9, it had no intent to impose the significant burden which payment of such a fee would represent on new, struggling minority broadcasters such as BCI. Accordingly, the regulatory fee for station WGTW for the current fiscal year should be waived.

Respectfully submitted,

BRUNSON COMMUNICATIONS, INC.

By:



Barry D. Wood
JONES, WALDO, HOLBROOK
& MCDONOUGH, P.C.
Suite 900
2300 M Street, N.W.
Washington, D.C. 20037
(202) 296-5950

Its Attorneys

July 29, 1994